

White House calls logs show Mr. Trump reached out on the morning of Jan. 6 to Mr. Jordan, who had been organizing objections to Mr. Biden's election on the House floor, and spoke with him for 10 minutes.

Later that day, with the Capitol under siege, Representative Liz Cheney, Republican of Wyoming, angrily singled out Mr. Jordan for blame amid the mayhem.

In an interview, Mr. Jordan defended his actions.

"The terrible things that happened that day didn't change the fact that several states — the best example being Pennsylvania — changed their laws in an unconstitutional fashion," Mr. Jordan says. "I actually felt like we weren't doing our duty if we didn't object."

The House Jan. 6 committee issued a subpoena to Mr. Jordan, which he resisted, creating a precedent that has complicated his efforts to compel Mr. Bragg and other would-be witnesses to cooperate with his panel now.



In Congress, Mr. Jordan quickly made a name for himself as a conservative firebrand, but not a legislative powerhouse. Erin Schaff/The New York Times

Five days after the attack on the Capitol, Mr. Jordan and his family attended a private ceremony at the White House. The National Guard was still posted at the Capitol, a seven-foot fence had been installed around its perimeter, and lawmakers were working on a second impeachment of Mr. Trump.

But as Mr. Jordan's mother and mother-in-law posed for a photo with Ivanka Trump, Mr. Jordan made an emotional speech extolling Mr. Trump.

"No president in my lifetime has done more of what they said they would do," he said.

Then Mr. Trump put the Presidential Medal of Freedom — the highest civilian honor an American can receive — around Mr. Jordan's neck.

Karoun Demirjian contributed reporting.

# **EXHIBIT 68**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DONALD J. TRUMP; THE TRUMP  
ORGANIZATION, INC.; TRUMP  
ORGANIZATION LLC; THE TRUMP  
CORPORATION; DJT HOLDINGS LLC;  
THE DONALD J. TRUMP REVOCABLE  
TRUST; and TRUMP OLD POST OFFICE  
LLC,

Plaintiffs,

v.

ELIJAH E. CUMMINGS, in his official capacity  
as Chairman of the House Committee on  
Oversight and Reform; PETER KENNY, in his  
official capacity as Chief Investigative Counsel  
of the House Committee on Oversight and  
Reform; and MAZARS USA LLP,

Defendants.

Civil Action No. 1:19-cv-01136-APM

**JOINT STIPULATION**

All parties stipulate that Defendants Elijah E. Cummings and Peter Kenny are dismissed from this case without prejudice. These Defendants can be dismissed because Intervenor-Defendant Committee on Oversight and Reform of the U.S. House of Representatives is a proper party and, in the event that the Court issues a judgment in favor of Plaintiffs, Intervenor-Defendant has represented that any appropriate relief could be obtained from it.

Dated: April 29, 2019

s/ Douglas N. Letter

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# **EXHIBIT 69**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DONALD J. TRUMP,  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500,

THE TRUMP ORGANIZATION, INC.,  
TRUMP ORGANIZATION LLC,  
THE TRUMP CORPORATION,  
DJT HOLDINGS LLC,  
THE DONALD J. TRUMP REVOCABLE  
TRUST,  
725 Fifth Avenue  
New York, NY 10022,

TRUMP OLD POST OFFICE LLC,  
1100 Pennsylvania Avenue NW  
Washington, D.C. 20004,

Plaintiffs,

v.

ELIJAH E. CUMMINGS, in his official capacity  
as Chairman of the House Committee on  
Oversight and Reform,  
PETER KENNY, in his official capacity as  
Chief Investigative Counsel of the House  
Committee on Oversight and Reform,  
2157 Rayburn House Office Building  
Washington, D.C. 20515,

MAZARS USA LLP,  
135 West 50th Street  
New York, NY 10020,

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

Plaintiffs bring this action against Defendants for declaratory and injunctive relief and allege as follows:

## INTRODUCTION

1. The Democrat Party, with its newfound control of the U.S. House of Representatives, has declared all-out political war against President Donald J. Trump. Subpoenas are their weapon of choice.

2. Democrats are using their new control of congressional committees to investigate every aspect of President Trump’s personal finances, businesses, and even his family. Instead of working with the President to pass bipartisan legislation that would actually benefit Americans, House Democrats are singularly obsessed with finding something they can use to damage the President politically. They have issued more than 100 subpoenas and requests to anyone with even the most tangential connection to the President.

3. This case involves one of those subpoenas. Last week, Defendant Elijah E. Cummings invoked his authority as Chairman of the House Oversight Committee to subpoena Mazars USA LLP—the longtime accountant for President Trump and several Trump entities (all Plaintiffs here). Chairman Cummings asked Mazars for financial statements, supporting documents, and communications about Plaintiffs over an eight-year period—mostly predating the President’s time in office.

4. Chairman Cummings requested this information because Michael Cohen—a felon who has pleaded guilty to lying to Congress—told the House Oversight Committee that the President had misrepresented his net worth while he was a private citizen. The Committee, according to Chairman Cummings, now needs to “investigate whether the President may have engaged in illegal conduct.” The Chairman claims he can do so because the Oversight Committee can supposedly investigate “any matter at any time.”

5. Chairman Cummings has ignored the constitutional limits on Congress’ power to investigate. Article I of the Constitution does not contain an “Investigations Clause” or an “Oversight



Clause.” It gives Congress the power to enact certain *legislation*. Accordingly, investigations are legitimate only insofar as they further some legitimate legislative purpose. No investigation can be an end in itself. And Congress cannot use investigations to exercise powers that the Constitution assigns to the executive or judicial branch.

6. Chairman Cummings’ subpoena of Mazars lacks a legitimate legislative purpose. There is no possible legislation at the end of this tunnel; indeed, the Chairman does not claim otherwise. With this subpoena, the Oversight Committee is instead assuming the powers of the Department of Justice, investigating (dubious and partisan) allegations of illegal conduct by private individuals outside of government. Its goal is to expose Plaintiffs’ private financial information for the sake of exposure, with the hope that it will turn up something that Democrats can use as a political tool against the President now and in the 2020 election.

7. Because Chairman Cummings’ subpoena to Mazars threatens to expose Plaintiffs’ confidential information and lacks “a legitimate legislative purpose,” this Court has the power to declare it invalid and to enjoin its enforcement. *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 501 n.14 (1975) (endorsing *U.S. Servicemen’s Fund v. Eastland*, 488 F.2d 1252, 1259-60 (D.C. Cir. 1973)). Plaintiffs are entitled to that relief.

### PARTIES

8. Plaintiff Donald J. Trump is the 45th President of the United States. President Trump brings this suit solely in his capacity as a private citizen.

9. Plaintiff The Trump Organization, Inc. is a New York corporation with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

10. Plaintiff Trump Organization LLC is a New York limited liability company with its principal place of business at 725 Fifth Avenue, New York, NY 10022.



11. Plaintiff The Trump Corporation is a New York corporation with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

12. Plaintiff DJT Holdings LLC is a Delaware limited liability company with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

13. Plaintiff The Donald J. Trump Revocable Trust is a trust created and operating under the laws of New York.

14. Plaintiff Trump Old Post Office LLC is a Delaware limited liability company with its principal place of business at 1100 Pennsylvania Avenue NW, Washington, D.C. 20004.

15. Defendant Elijah E. Cummings is the U.S. Representative for Maryland's 7th District and the Chairman of the House Committee on Oversight and Reform. He is a member of the Democrat party. Chairman Cummings issued the subpoena in question and is sued in his official capacity.

16. Defendant Peter Kenny is the Chief Investigative Counsel for the House Committee on Oversight and Reform. He signed and served the subpoena in question and is sued in his official capacity.

17. Defendant Mazars USA LLP is a New York limited liability partnership with its principal executive office at 135 West 50th Street, New York, NY 10020. Mazars is an accounting firm and the recipient of Chairman Cummings' subpoena. Mazars is a defendant to ensure that Plaintiffs can obtain effective relief.

### **JURISDICTION & VENUE**

18. This Court has subject-matter jurisdiction because this case arises under the Constitution and laws of the United States. 28 U.S.C. §§1331, 2201.

19. Venue is proper because Chairman Cummings officially resides in the District. 28 U.S.C. §1391.

## BACKGROUND

### I. Challenges to Congressional Subpoenas

20. Not infrequently, federal courts adjudicate the legality of congressional subpoenas. Most such cases follow a familiar fact pattern: Congress issues a subpoena, the target does not comply, Congress tries to force compliance in federal court, and the target raises the illegality of the subpoena as a defense.

21. But this defensive posture is not the only way to challenge a congressional subpoena. When Congress “seeks information directly from a party,” that party “can resist and thereby test the subpoena.” *Eastland*, 421 U.S. at 501 n.14. But when Congress “seeks that same information from a third person,” this option is not available; the third party might not have an interest in protecting the information or resisting the subpoena, and its “compliance” with the subpoena “could frustrate any judicial inquiry.” *Id.* For that reason, the law allows the person whose information will be exposed to sue in federal court for an “injunction or declaratory judgment” to block the subpoena’s “issuance, service on, or enforcement against” the “third party.” *Eastland*, 421 U.S. at 501 n.14. The key question in such a case is “whether a legitimate legislative purpose is present.” *Eastland*, 421 U.S. at 501.

22. The “legitimate legislative purpose” requirement stems directly from the Constitution. “The powers of Congress ... are dependent solely on the Constitution,” and “no express power in that instrument” allows Congress to investigate individuals or to issue compulsory process. *Kilbourn v. Thompson*, 103 U.S. 168, 182-89 (1880). The Constitution instead permits Congress to enact certain kinds of legislation. *See, e.g.*, Art. I, §8. Thus, Congress’ power to investigate “is justified solely as an adjunct to the legislative process.” *Watkins*, 354 U.S. at 197. “Congress is not invested with a general power to inquire into private affairs. The subject of any inquiry always must be one on which legislation could be had.” *Eastland*, 421 U.S. at 504 n.15 (cleaned up); *see also Quinn v. United States*, 349 U.S. 155, 161 (1955) (“[T]he power to investigate” does not “extend to an area in which Congress is forbidden to legislate.”).

23. “Oversight” and “transparency,” in a vacuum, are not legitimate legislative purposes that can justify subpoenaing a private citizen. For more than a century, in fact, the Supreme Court has been quite “sure” that neither the House nor Senate “possesses the general power of making inquiry into the private affairs of the citizen.” *Kilbourn*, 103 U.S. at 190. “[T]here is no congressional power to expose for the sake of exposure.” *Watkins*, 354 U.S. at 200. “No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.” *Id.* at 187.

24. Additionally, because Congress must have a legitimate *legislative* purpose, it cannot use subpoenas to exercise “any of the powers of law enforcement.” *Quinn*, 349 U.S. at 161. Those powers “are assigned under our Constitution to the Executive and the Judiciary.” *Id.* Put simply, Congress is not “a law enforcement or trial agency,” and congressional investigations conducted “for the personal aggrandizement of the investigators” or “to ‘punish’ those investigated” are “indefensible.” *Watkins*, 354 U.S. at 187. Our tripartite system of separated powers requires that “any one of the[] branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.” *Kilbourn*, 103 U.S. at 190-91.

25. Finally, when a subpoena is issued by a single committee, any legislative purpose is not legitimate unless it falls within that committee’s jurisdiction. “The theory of a committee inquiry is that the committee members are serving as the representatives of the parent assembly in collecting information for a legislative purpose.” *Watkins*, 354 U.S. at 200. Congress therefore must “spell out that group’s jurisdiction and purpose with sufficient particularity ... in the authorizing resolution,” which “is the committee’s charter.” *Id.* at 201. The committee “must conform strictly to the resolution.” *Exxon Corp. v. FTC*, 589 F.2d 582, 592 (D.C. Cir. 1978). And when an investigation is “novel” or “expansive,” courts will construe the committee’s jurisdiction “narrowly.” *Tobin v. United States*, 306 F.2d 270, 275 (D.C. Cir. 1962).

## II. House Democrats' Campaign of Abusive Investigations

26. After the 2018 midterm elections, the Democrat party won a majority of seats in the House. Every House committee in the current Congress is thus chaired by a Democrat.

27. On the night of the election, soon-to-be Speaker Nancy Pelosi announced that “tomorrow will be a new day in America” because House Democrats will use their new majority to enact “checks and balances to the Trump administration.” And “subpoena power,” she explained a few days later, is “a great arrow to have in your quiver.” Chairman Cummings echoed the Speaker’s sentiments, stating that “it’s a new day” and that “[President Trump] has to be accountable.” He added that “we’ve got to address this issue of exposing President Trump.” “Congress is going to force transparency on this president,” another Democrat congressional aide repeated. “Once there is transparency, I am sure there are going to be a lot of questions that flow from that.”

28. The Democrats’ statements about “checks and balances” and “transparency” were not referring to legislation. Instead, according to news outlets that interviewed party leaders and aides shortly after the election, House Democrats meant that they were going to spend the next two years launching a “fusillade” of subpoenas in order to “drown Trump with investigations,” “turn Trump’s life upside down,” and “make Trump’s life a living hell.”

29. Prominent Democrats were quite candid about their party’s mission. Representative John Yarmuth, now chair of the House Budget Committee, stated that the new House majority would be “brutal” for President Trump: “We’re going to have to build an air traffic control tower to keep track of all the subpoenas flying from here to the White House.” Another senior Democrat official revealed that, from November 2018 to January 2019, House Democrats were busy preparing a “subpoena cannon” to fire at President Trump based on a “wish-list” of nearly 100 investigatory topics. Representative Nita Lowey, now chair of the House Appropriations Committee, confirmed a

long list of topics that House Democrats planned to investigate and stated, “We have our boxing gloves on. I’m ready. And so is Nancy.”

30. The Democrats’ “focus,” according to then–Minority Whip Steny Hoyer, would be examining “the President in terms of what [business] interests he has” from his time as a private citizen. That focus would include the President’s family. Future Oversight Committee member Alexandria Ocasio-Cortez, for instance, responded to a joke by the President’s son Donald Trump Jr. with an explicit threat: “Please keep it coming Jr – it’s definitely a ‘very, very large brain’ idea to troll a member of a body that will have subpoena power in a month.” The Democrats want this personal information in the hopes they will find something they can use to score political points against the President leading up to the 2020 election.

31. House Democrats are executing their plan in earnest. Recently, several House committees issued a flurry of subpoenas and requests for information about the President’s family, personal finances, and businesses. Just one request by Chairman Nadler of the House Judiciary Committee, for example, asked 81 different individuals for information about President Trump.

32. A few days ago, House Republicans discovered that Chairman Cummings had executed secret memoranda of understanding with Chairman Adam Schiff of the House Permanent Select Committee on Intelligence and Chairwoman Maxine Waters of the House Financial Services Committee. In the memoranda, the Chairs agreed to coordinate their subpoenas in order to inflict maximum political damage on President Trump. According to one congressional official with knowledge of the memoranda, they are “an agreement to conspire and coordinate their efforts to attack and investigate POTUS” by targeting his business and financial records.

33. Last Monday, Chairman Cummings sent one such subpoena to Mazars—Plaintiffs’ longtime accountant. That subpoena is the subject of this lawsuit.



### III. Chairman Cummings' Subpoena to Mazars

34. The Mazars subpoena is based on one of the worst examples of the House Democrats' zeal to attack President Trump under the guise of investigations: Michael Cohen's testimony to the House Oversight Committee on February 27, 2019.

35. The Cohen hearing was a partisan stunt, not a good-faith effort to obtain accurate testimony from a reliable witness. Cohen is a convicted liar; before his February hearing, he had pleaded guilty to several federal crimes including making false statements to Congress. Cohen's testimony was orchestrated by his lawyer Lanny Davis, a political operative for the Democrat party, and Cohen met extensively with House Democrats about the contents of his testimony before he gave it. The reason that Cohen testified, moreover, is so Chairman Cummings and other Democrats would support his request for leniency during his federal sentencing. And according to Ranking Member Jim Jordan, Cohen told several additional lies to Congress in his February testimony.

36. Nevertheless, Chairman Cummings seized on Cohen's allegation that certain financial statements—which Mazars had prepared for President Trump while he was a private citizen—contained inaccuracies. Citing Cohen's testimony, Chairman Cummings wrote to Mazars on March 20, 2019, asking it to produce the following information about President Trump:

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the items described in Request Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of items described in Request



Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and

4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the items described in Request Number 1, including, but not limited to:
  - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
  - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this request is from January 1, 2009, to the present.

37. Chairman Cummings did not consult with Committee Republicans before sending his request to Mazars. When they discovered the request, Representatives Jordan and Mark Meadows—the Ranking Member of the Oversight Committee and the Subcommittee on Government Operations, respectively—objected. They wrote Mazars informing it that, because Chairman Cummings’ request seeks “information and material about President Trump’s personal finances ... well before [he] was even a candidate for federal office,” it “does not appear to have a valid legislative purpose and instead seems to seek information to embarrass a private individual.” The Ranking Members repeated their concerns in a letter to Chairman Cummings, explaining that the Chairman’s request “seems to examine facts relating to a transaction that never materialized” and other “information [from] ... well before the President was even a candidate.” This is not an attempt at “legitimate oversight,” they added; its only purpose is “to embarrass President Trump” and to maintain House Democrats’ “repeated partisan attacks on the President.”

38. Mazars, through its outside counsel, wrote back to Chairman Cummings on March 27. Mazars informed Chairman Cummings that it “cannot voluntarily turn over the documents.”

39. Mazars was correct. Under its contract with Plaintiffs, Mazars must abide by the American Institute of CPAs' ethical rules, which prohibit accountants from "disclos[ing] any confidential client information without the specific consent of the client." AICPA Code of Professional Conduct §1.700.001.01. New York law imposes the same duty. *See* 8 N.Y.C.R.R. §29.10(c) ("[U]nprofessional conduct" by accountants includes the "revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the client."). A congressional subpoena does not relieve Mazars from these duties, unless the subpoena is "validly issued and enforceable." AICPA Code §1.700.001.02.

40. Chairman Cummings thus tried to craft a subpoena that would hold up in court. Sensing this would be a tall order, the Chairman waited until the House left for its Easter break to circulate a memorandum about the subpoena and then to issue it. This maneuver allowed him to subpoena Mazars without first conferring with Committee Republicans and having to defend his reasoning at an open meeting of the Oversight Committee.

41. Chairman Cummings' memorandum, dated April 12, 2019, again cited Cohen's testimony as the basis for subpoenaing Mazars. The Chairman also suggested that "news reports have raised additional concerns regarding the President's financial statements and representations." But the first "news report"—a blog post from MSNBC's Rachel Maddow Show—merely repeated Cohen's testimony. And the second "news report"—a March 2019 article from the Washington Post—quoted legal experts who explained why the financial statements did not break any laws. The Chairman's memorandum nonetheless stated that the Committee needed to investigate "whether the President has been accurate in his financial reporting."

42. Ranking Member Jordan again objected to Chairman Cummings' planned subpoena. In an April 15 letter and memorandum, the Ranking Member explained that the subpoena "is an unprecedented abuse of the Committee's subpoena authority to target and expose the private financial

information of the President of the United States” for “political gain.” The subpoena is an impermissible attempt to “expose the private affairs of individuals,” the Ranking Member explained, because “Chairman Cummings has cited no specific law or legislative proposal for which he requires eight years of sensitive, personal financial information about President Trump.” Ranking Member Jordan also noted his deep concern that Chairman Cummings would selectively leak whatever information he obtained from Mazars, citing examples where the Chairman had strategically leaked similar sensitive information in the past.

43. Despite the Ranking Members’ objections, Chairman Cummings issued the subpoena to Mazars that same day. The subpoena was identical to the Chairman’s initial request for information, except that it asked for information from “2011 through 2018” instead of “2009 to the present.” The subpoena currently orders Mazars to comply by noon on April 29, 2019.

44. Ranking Member Jordan responded to the subpoena in a letter dated April 17. The subpoena, he explained, “is an act of raw partisan politics meant only to further your obsession with attacking the President of the United States.” Chairman Cummings “did not dispute the fact that [his] subpoena to Mazars is part of a coordinated and carefully managed campaign to use congressional oversight for political gain,” the Ranking Member observed, and never “articulated how the sensitive, personal financial information [he] seek[s] will advance a legitimate legislative purpose.”

45. Plaintiffs bring this suit to challenge the validity and enforceability of Chairman Cummings’ subpoena. Now that the subpoena has issued, Mazars faces an unfair choice: ignore the subpoena and risk contempt of Congress, or comply with the subpoena and risk liability to Plaintiffs if the subpoena is invalid or unenforceable. To resolve these conflicting commands, the D.C. Circuit has instructed third-party accountants like Mazars to hold onto the subpoenaed materials until the dispute over the subpoena’s validity is finally resolved in court: “[AICPA] Rule 301 ... explains that it ‘shall not be construed ... to affect in any way the member’s obligation to comply with a validly issued

and enforceable subpoena or summons.’ But [the client] challenges the enforceability of a subpoena . . . . Thus [the accountant] c[an] refuse to produce the documents, thereby allowing [the client to litigate the subpoena], without violating its obligation to comply with enforceable subpoenas.” *United States v. Deloitte LLP*, 610 F.3d 129, 142 (D.C. Cir. 2010). Congress thus cannot take any action against Mazars until this litigation is finally resolved.

### **CLAIM FOR RELIEF**

46. Plaintiffs incorporate all their prior allegations.

47. Chairman Cummings’ subpoena is invalid and unenforceable because it has no legitimate legislative purpose.

48. The subpoena seeks to investigate events that occurred while President Trump was a private citizen, years before he was even a candidate for public office.

49. The subpoena seeks to investigate events that could not possibly lead to legislation within the Oversight Committee’s statutory jurisdiction and constitutional authority.

50. The subpoena is an attempt to investigate and adjudicate possible violations of federal law by private individuals—law-enforcement powers that only the executive and judicial branches can exercise.

**WHEREFORE**, Plaintiffs ask this Court to enter judgment in their favor and to provide the following relief:

- a. A declaratory judgment that Chairman Cummings’ subpoena is invalid and unenforceable;
- b. A permanent injunction quashing Chairman Cummings’ subpoena;
- c. A permanent injunction prohibiting Chairman Cummings and Mr. Kenny from taking any actions to enforce the subpoena, from imposing sanctions for noncompliance with the subpoena, and from inspecting, using, maintaining, or disclosing any information obtained as a result of the subpoena;

- d. A temporary restraining order and preliminary injunction prohibiting Mazars from producing the requested information, and prohibiting Chairman Cummings and Mr. Kenny from taking any actions to enforce the subpoena, until the subpoena's validity has been finally adjudicated on the merits;
- e. Plaintiffs' reasonable costs and expenses, including attorneys' fees; and
- f. All other preliminary and permanent relief to which Plaintiffs are entitled.

Respectfully submitted,

Dated: April 22, 2019

s/ William S. Consovoy

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## CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<b>I. (a) PLAINTIFFS</b> Donald J. Trump; The Trump Organization, Inc.; Trump Organization LLC; The Trump Corporation; DJT Holdings LLC; The Donald J. Trump Revocable Trust; Trump Old Post Office LLC (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> Elijah E. Cummings, Peter Kenny, Mazars USA LLP  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) William S. Consovoy Consovoy McCarthy Park PLLC 3033 Wilson Blvd., Ste. 700, Arlington, VA 22201 (703) 243-9423	<b>ATTORNEYS (IF KNOWN)</b> Stefan C. Passantino Michael Best & Friedrich LLP 1000 Maine Ave. SW, Ste. 400 Washington, D.C. 20024

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="radio"/> 1 U.S. Government Plaintiff         </div> <div style="width:48%;"> <input checked="" type="radio"/> 3 Federal Question (U.S. Government Not a Party)         </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:48%;"> <input type="radio"/> 2 U.S. Government Defendant         </div> <div style="width:48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input checked="" type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="checkbox"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="checkbox"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
--	--	---	---

<input checked="" type="radio"/> <b>E. General Civil (Other)</b>	<input type="radio"/> <b>F. Pro Se General Civil</b>
--	--

<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
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<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 28 USC §§1331, 2201. Suit for declaratory and injunctive relief challenging a congressional subpoena.

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 4/22/2019	SIGNATURE OF ATTORNEY OF RECORD _____
-----------------	---------------------------------------

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

# UNITED STATES DISTRICT COURT

for the  
District of Columbia

DONALD J. TRUMP, et al.

*Plaintiff(s)*

v.

Civil Action No.

ELIJAH E. CUMMINGS, PETER KENNY, MAZARS  
USA LLP

*Defendant(s)*

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* The Honorable Elijah E. Cummings  
Chairman, House Committee on Oversight and Reform  
United States House of Representatives  
2157 Rayburn House Office Building  
Washington, D.C. 20515

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: William S. Consovoy  
Consovoy McCarthy Park PLLC  
3033 Wilson Blvd., Ste. 700  
Arlington, VA 22201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the  
District of Columbia

DONALD J. TRUMP, et al.

\_\_\_\_\_  
*Plaintiff(s)*

v.

Civil Action No.

ELIJAH E. CUMMINGS, PETER KENNY, MAZARS  
USA LLP

\_\_\_\_\_  
*Defendant(s)*

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Peter Kenny  
Chief Investigative Counsel, House Committee on Oversight and Reform  
United States House of Representatives  
2157 Rayburn House Office Building  
Washington, D.C. 20515

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: William S. Consovoy  
Consovoy McCarthy Park PLLC  
3033 Wilson Blvd., Ste. 700  
Arlington, VA 22201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

# **EXHIBIT 70**



G:\M\18\BIGGS\BIGGS\_018.XML



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To prohibit Federal funds from being awarded or otherwise made available  
to the Manhattan District Attorney's Office.

---

IN THE HOUSE OF REPRESENTATIVES

Mr. BIGGS introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

---

**A BILL**

To prohibit Federal funds from being awarded or otherwise  
made available to the Manhattan District Attorney's Office.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Accountability for  
5 Lawless Violence In our Neighborhoods Act" or the  
6 "ALVIN Act".

G:\M\18\BIGGS\BIGGS\_018.XML

2

1 **SEC. 2. PROHIBITION ON FEDERAL FUNDING WITH RE-**  
2 **SPECT TO MANHATTAN DISTRICT ATTORNEY.**

3 (a) PROHIBITION ON FEDERAL FUNDING.—Notwith-  
4 standing any other provision of law, no Federal funds may  
5 be awarded or otherwise made available to the Manhattan  
6 District Attorney's Office.

7 (b) RESCISION AND REPAYMENT OF FEDERAL FUND-  
8 ING.—The unobligated balances of all amounts allocated  
9 for or otherwise made available to the Manhattan District  
10 Attorney's Office is hereby rescinded, and the Attorney  
11 General shall take such steps as may be necessary and  
12 practicable to require the Manhattan District Attorney's  
13 Office to reimburse the Federal Government for all  
14 amounts expended for such Office after the date of Janu-  
15 ary 1, 2022.

# **EXHIBIT 71**

SUPREME COURT  
TRIAL TERM

NEW YORK COUNTY  
PART 59

-----x  
THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT #  
: 71543-2023  
:  
AGAINST : CHARGE  
: FALSIFYING BUSINESS  
: RECORDS 1st Deg.  
:  
DONALD J. TRUMP :  
:  
:  
-----x Proceedings

100 Centre Street  
New York, New York 10013  
April 4, 2023

B E F O R E:

HONORABLE: JUAN MERCHAN,  
JUSTICE OF THE SUPREME COURT

RANDY BERKOWITZ, SENIOR COURT REPORTER

APPEARANCES FOR THE PEOPLE:

ALVIN BRAGG, JR. DISTRICT ATTORNEY BY:  
SUSAN HOFFINGER, ESQ.  
CHRISTOPHER CONROY, ESQ.  
MATTHEW COLANGELO, ESQ.  
CATHERINE MCCAW, ESQ.  
BECKY MANGOLD, ESQ.

FOR THE DEFENDANT, DONALD J. TRUMP:  
SUSAN NECHELES, ESQ.  
JOSEPH TACOPINA, ESQ.  
TODD BLANCHE, ESQ.

1 -----

2 THE CLERK: Calendar number one, indictment 71543  
3 of 2023, People of the State of New York versus Donald J.  
4 Trump. Appearances.

5 MR. CONROY: Christopher Conroy for the People.  
6 And Judge, with me are Catherine McCaw, Matthew Colangelo,  
7 Susan Hoffinger and Becky Mangold.

8 THE COURT: Good afternoon.

9 MR. BLANCHE: Good afternoon, your Honor. Todd  
10 Blanche for President Trump.

11 MS. NECHELES: Susan Necheles for President Trump  
12 as well.

13 MR. TACOPINA: Once again, Joseph Tacopina for  
14 President Donald J. Trump.

15 THE COURT: Good afternoon.

16 This matter is on for arraignment. Anything that  
17 we need to address before we conduct the arraignment?

18 MR. CONROY: Not from the People.

19 THE COURT: Defense?

20 MR. BLANCHE: No, your Honor.

21 THE COURT: Lets arraign Mr. Trump.

22 THE CLERK: Donald J. Trump, the grand jury of New  
23 York County has filed indictment 71543 of 2023 charging you  
24 with the crimes of 34 counts of falsifying business records  
25 in the first degree.

1                   How do you plead to this indictment, guilty or not  
2           guilty?

3                   DEFENDANT MR. TRUMP: Not guilty.

4                   THE COURT: People.

5                   MR. CONROY: Thank you, Judge. First, we are  
6           filing with the Court and handing to counsel, copies of the  
7           indictment and a statement of facts.

8                   Judge, I'm also handing over to counsel a copy of  
9           the fingerprint report, and I would note for the record  
10          that the indictment was actually unsealed at 1:30 today and  
11          given to counsel for the defendant so they could review  
12          that in advance of this appearance.

13                  Your Honor, a grand jury sitting here in Manhattan  
14          made up of diligent, thoughtful New Yorkers who did their  
15          civic duty, listened to the evidence and carefully  
16          considered the charges has voted an indictment against the  
17          defendant, Donald J. Trump, charging him with 34 separate  
18          felony counts of falsifying business records in the first  
19          degree in violation of New York State Penal Law section 175  
20          10.

21                  ADA McCaw is prepared to address discovery,  
22          scheduling of motions, and a trial date in a moment, but  
23          with the Court's permission, I would first like to address  
24          briefly what this case is about, the defendant's recent  
25          public statements, conditions of release, and the conflict



1 matter the People believe the Court should be aware of.

2 THE COURT: Please.

3 MR. CONROY: Thank you. The defendant, Donald J.  
4 Trump, falsified New York business records in order to  
5 conceal an illegal conspiracy to undermine the integrity of  
6 the 2016 presidential election and other violations of  
7 Election Laws.

8 Beginning in about August of 2015, the defendant  
9 agreed with others to carry out an unlawful plan to  
10 identify and suppress negative information that could have  
11 undermined his candidacy for President.

12 As part of that plan, a lawyer employed by the  
13 Trump Organization made a covert and illegal 130 thousand  
14 dollar payment at the defendant's direction.

15 The purpose of the payment was to avoid negative  
16 attention to the defendant's campaign by suppressing  
17 information about an allegedly sexual encounter between  
18 defendant and an adult film actress.

19 After the election, defendant reimbursed the  
20 lawyer through a series of disguised monthly payments that  
21 hid the true nature of the payoff by causing a series of  
22 false business records in the records of the Trump  
23 Organization here in Manhattan, and even mischaracterized  
24 for tax purposes the true nature of the payment.

25 Defendant falsified these New York business

1 records with the intent to defraud, including the intent to  
2 commit another crime, and to aid and conceal the commission  
3 of another crime.

4 This office has long prioritized protecting the  
5 integrity of business records maintained here in New York  
6 County.

7 When those records are falsified in service of  
8 another crime, it is a felony.

9 That is what this defendant did when he falsified  
10 business records in order to conceal unlawful efforts to  
11 promote his candidacy and that is why we are here.

12 Next, I would like to briefly address this  
13 defendant's recent public statements threatening our city,  
14 our justice system, our courts, and our office.

15 Over the past several weeks and longer, this  
16 defendant has made a series of threatening and escalating  
17 communications on social media and on other public remarks.  
18 This includes irresponsible social media posts that target  
19 various individuals involved in this matter, and even their  
20 families.

21 His public statements have, among other things,  
22 threatened potential death and destruction, and that is a  
23 quote, and world war three, another quote, if these charges  
24 were brought and he was indicted.

25 They have directly addressed the grand jury and

1       disparaged witnesses who have purportedly participated in  
2       our investigation.

3               Defendant has also directed a series of  
4       threatening public statements to the District Attorney's  
5       Office, including posting a picture that depicts Mr. Trump  
6       wielding a baseball bat at the head of the District  
7       Attorney.

8               These comments and posts have led to extensive  
9       public safety measures being put into place by a number of  
10      law enforcement agencies around the city, including here at  
11      the courthouse starting several weeks ago.

12              At this point, I'm going to hand the Court copies  
13      of several of the defendant's recent online posts as an  
14      example. Sorry, one moment.

15              ( Handed to Court and counsel).

16              MR. CONROY: I'm also handing copies to counsel.  
17      These posts are examples of this kind of threatening  
18      rhetoric.

19              We have significant concern about the potential  
20      danger this kind of rhetoric poses to our city, to  
21      potential jurors and witnesses, and to the judicial  
22      process.

23              What these kinds of posts will not do, is deter  
24      the New York County District Attorney's Office from  
25      carrying out its critical public safety mission

1 professionally, and evenhandedly in connection with every  
2 single investigation and prosecution we have handled,  
3 including this one.

4 At this point, one way to address the defendant's  
5 behavior and rhetoric is an appropriately restricted  
6 protective order concerning discovery materials, so that  
7 his lawyers can access the information they need to prepare  
8 a defense, while at the same time, making sure the  
9 defendant does not disseminate any information provided as  
10 discovery through threatening online posts.

11 ADA McCaw will further address the protective  
12 order shortly, and the terms of any protective order the  
13 Court enters can of course be carefully policed through  
14 contempt proceedings and other sanctions as necessary.

15 Today we are only seeking a protective order  
16 regarding discovery materials, but we note that the  
17 defendant's escalating public comments summing directly at  
18 participants at these proceedings and their family members,  
19 may also raise concerns about the fair and orderly  
20 administration of justice, the risks that pretrial  
21 publicity will paint the jury pool and prejudice a fair  
22 trial, and individual and public safety concerns.

23 We are considering whether further relief or  
24 conditions would be warranted here based on continuing  
25 developments, and we would be prepared to submit briefing

1 if the Court requests.

2 I'm going to move now to conditions of release.

3 In addressing the terms or the conditions of defendant's  
4 release, we first note under New York law, these charges  
5 are not bail eligible.

6 We further note defendant surrendered voluntarily  
7 for his processing and arraignment today.

8 We are asking the Court to give the defendant  
9 Parker warnings before he leaves the courtroom today.

10 Should the defendant decide got to return to court  
11 from out of state, these warnings would help mitigate  
12 potential issues around any extradition proceeding.

13 Finally, if circumstances change and we believe  
14 modifications to these conditions are required, we will  
15 advise the Court.

16 Last on my list, we would like to bring to your  
17 attention a potential conflict Mr. Tacopina may have, given  
18 our understanding that he previously had privileged  
19 communications with Stormy Daniels, who we expect to be a  
20 witness in this case.

21 We believe it appropriate for you to conduct an  
22 inquiry at an appropriate time of both Mr. Tacopina and the  
23 defendant about potential conflict issues related to his  
24 prior dealings with Ms. Daniels.

25 We received a copy of a letter from Ms. Daniels's

1 current lawyer which was sent to Mr. Tacopina on this issue  
2 yesterday; Monday, April 3rd.

3 We can file a copy with the Court and serve it on  
4 counsel within the next day or so if that would assist the  
5 Court in considering this issue.

6 At this point, if it is okay, I was going to turn  
7 to Ms. McCaw to talk about discovery and other issues.

8 THE COURT: Of course. Counsel?

9 MR. BLANCHE: Your Honor, thank you. I didn't  
10 realize we were going to give opening statements today.

11 I would appreciate the opportunity to respond.

12 Your Honor, the People just talked for 10 minutes  
13 or so about, it sounds like the strength of their case.

14 They did this -- there is no trial, we have not  
15 seen discovery. It is actually consistent with what the  
16 witnesses have been doing they have been calling over the  
17 past several months.

18 Indeed, their main witness, Michael Cohen, walks  
19 out of this office and stands on the courthouse steps  
20 everytime he meets with the prosecutors, everytime he  
21 testifies in the grand jury, and announces exactly what  
22 he's doing and why he's doing it.

23 It is true that President Trump has responded, and  
24 responded forcefully. It is true that as part of that  
25 response, he's absolutely frustrated, upset, and believes



1           that there is a grave injustice happening with him being in  
2           this courtroom today.

3                       That being said, your Honor, for the People to  
4           stand before you today and give their version of this  
5           indictment, is actually exasperating the problem.

6                       So, the complaint from the People is that  
7           President Trump is talking too much about the case, talking  
8           too much about the investigation --

9                       THE COURT:    I'm not sure that is what they were  
10          saying. They are complaining about the rhetoric and the  
11          charged nature of the language that is being used.

12                      MR. CONROY:   That is correct, your Honor.

13                      MR. BLANCHE:  If that is the case, the President  
14          has not only free speech rights to talk about his view of  
15          what is happening by the District Attorney in this case,  
16          and also, it is important to step back, your Honor; to  
17          realize this case has been investigated for three and a  
18          half years.

19                      Your Honor, one of the main investigators with  
20          this office, left the office, wrote a book about this  
21          investigation, published a book, and has talked about the  
22          book publicly.

23                      Thereafter, as I said, the People's main witness  
24          has talked repeatedly, not only on the courthouse steps,  
25          but on every news, every news show and print media. He has

1           written two books, he has a podcast all talking about the  
2           case.

3                       The President is running for reelection to be the  
4           President of the United States.

5                       I mean, imagine anybody in this courtroom that was  
6           in that position, an investigation that lasted over three  
7           years, over three years with leaks galore.

8                       The People were right, we received a copy of the  
9           indictment about 40 minutes ago. The media received a lot  
10          of these hints about the indictment last Thursday night,  
11          and a copy of the indictment last night apparently.

12                      That is a grave injustice. The People didn't  
13          address that. The People have not addressed the fact that  
14          there is literally a violation of law that happened at some  
15          point in the past five days with the illegal leaking of  
16          charges against President Trump.

17                      What they did address, is their frustration when  
18          President Trump sees that, when he sees an illegal leak  
19          describing charges that he knows nothing about, when we  
20          speak with the assigned ADA's, they correctly tell us they  
21          can't share anything with us because it is sealed.

22                      And then he's frustrated and comments publicly  
23          about that; you can, I think, discuss words that are used,  
24          but everyone of these posts are not threats, they are not  
25          harassment, and rhetoric that maybe the People don't like,

1       sure. But, I think it is patently unfair, patently unfair  
2       for somebody who is running for President of the United  
3       States, for somebody who has sat by and watched for three  
4       and a half years an investigation go on about a 130  
5       thousand dollar payment before the last election, by the  
6       way, to be frustrated and to speak publicly. He has  
7       rights, he's allowed to speak publicly.

8               THE COURT:    Okay. Certainly, of course Mr. Trump  
9       does have rights, and I don't believe the People are asking  
10      the Court to impose any kind of gag order. I didn't hear  
11      that certainly.

12             MR. BLANCHE:  Agreed.

13             THE COURT:    Certainly, the Court would not impose  
14      a gag order at this time even if it were requested.

15             Such restraints are the most serious and least  
16      intolerable on First Amendment rights. That does apply  
17      doubly to Mr. Trump, because he is a candidate for the  
18      presidency of the United States. So, those First Amendment  
19      rights are critically important, obviously.

20             I don't share your view that certain language and  
21      certain rhetoric is just by frustration.

22             So, although I'm not going to issue a gag order  
23      and not something close to a gag order, I would encourage  
24      counsel on both sides, the People to please speak to your  
25      witnesses. Defense counsel, speak to your client and

1           anybody else you need to, and remind them to please  
2           refrain, please refrain from making statements that are  
3           likely to incite violence or civil unrest.

4                     Please refrain from making comments or engaging in  
5           conduct that has the potential to incite violence, create  
6           civil unrest, or jeopardize the safety or well-being of any  
7           individuals.

8                     Also, please do not engage in words or conduct  
9           which jeopardizes the rule of law, particularly as it  
10          applies to these proceedings in this courtroom.

11                    This is a request I'm making. I'm not making it  
12          an order. But now that I have made the request, if I were  
13          to be handed something like this again in the future, I  
14          have to take a closer look at it.

15                    So, I ask you to please discuss that with your  
16          client and the People also discuss it with your witnesses.

17                    MR. CONROY: Judge, I just note for the record  
18          that we have done so and will continue to do so, and do  
19          everything we can to clamp down on any witness comments in  
20          public, but there is only so much we can do.

21                    THE COURT: Thank you.

22                    MS. MCCAWE: Thank you, your Honor. I would like  
23          to address three matters before the Court today.

24                    The first is the protective order the People are  
25          in the process of working out with defense counsel.

1           The second issue is discovery. And the third  
2           issue is scheduling.

3           So, to begin with, with respect to a protective  
4           order, the People believe, especially in light of the  
5           defendant's public comments, that a protective order is  
6           vital to insure the sanctity of the proceedings as well as  
7           the sanctity of the discovery materials.

8           We are in the process of working out a consent  
9           protective order with defense counsel. We have had a  
10          number of very productive conversations, and I believe that  
11          we are very close to agreement and finalizing the language.

12          I expect that when we do reach an agreement, we  
13          should be able to submit that language to the Court within  
14          the next few days, hopefully.

15          One thing I would like to highlight, however, is  
16          that the proposed order, should the Court enter it, would  
17          have terms that would be binding not solely on defense  
18          counsel, but also on the defendant himself, and that should  
19          the defendant fail to abide by these terms, it could have  
20          the effect of being in contempt of court.

21          So, I just want to highlight the three terms.  
22          These are terms which the defense and the People have  
23          reached broad agreement.

24          The first is that the defendant may not use any of  
25          the materials that the People produce for any purpose,

1           other than to prepare a defense in this case.

2           The second is the defendant will be permitted to  
3           review certain sensitive materials, only in his attorney's  
4           office, and he may not take copies of the documents,  
5           portions of the documents, notes he took of the documents,  
6           et cetera, with him after he leave his attorney's offices.

7           And third, and perhaps most importantly, defendant  
8           may not provide the materials he receives through the  
9           discovery process to any third party, including the press,  
10          and he may not post them to social media.

11          And I would note again, for the record, that  
12          should the defendant after the Court enters an order  
13          violate any of the materials of this protective order, he  
14          could be in contempt of Court.

15          THE COURT: Before you move on to discovery, I'll  
16          turn to defense counsel. Are you working on a protective  
17          order?

18          MS. NECHELES: Yes, your Honor, thank you.

19          We are working on it together. We hope to reach  
20          an agreement. We just received another copy of it.

21          I will note that the People in their statement of  
22          facts here have laid out what they I assume contend the  
23          grand jury evidence and the testimony showed. So, I'm  
24          concerned and we need to go back and discuss this.

25          It seemed fundamentally incorrect for the People



1 to be able to put out into the public a statement of what  
2 they believe the facts are, and for the defense and someone  
3 who is defending his career, his reputation, everything  
4 that he's built in his entire life for him not to be able  
5 to respond in the same manner.

6 So, we need to look at what is in here and have  
7 further discussions. We hope to do that promptly.

8 THE COURT: I hope you are able to come to a  
9 meeting of the minds in the protect order so I all I have  
10 to do is sign it.

11 MR. TACOPINA: One thing on the protective order.  
12 I know the D.A said the review by the defendant would have  
13 to be in the attorney's office. That will not happen. I  
14 thought it was in the attorney's presence. We would meet  
15 most likely at the office of President Trump.

16 THE COURT: All right, since you are still  
17 negotiating, I will not weigh in at this time.

18 If you reach an impasse and you need my help in  
19 resolving anything, let me know and I'll try to help out.  
20 Now, the issue of discovery.

21 MS. MCCAWE: Yes, your Honor. Once a protective  
22 order is in place, the People expect they will be able to  
23 begin making rolling productions of discovery. We expect  
24 the productions of discovery will take place, broadly  
25 speaking, in three stages.

1           The first stage of materials will be materials  
2           that consist of grand jury minutes and exhibits, as well as  
3           notes of witness statements for those witnesses who  
4           testified in the grand jury.

5           We expect we will be able to provide those  
6           materials to the defense within a week assuming an  
7           appropriate protective order is in place.

8           The second stage of discovery will consist of  
9           subpoena compliance, other witness materials, as well as  
10          some police documents and other odds and ends.

11          We believe this group of discovery materials will  
12          be the bulk of the People's additional discovery materials,  
13          and we expect we will be able to produce those materials  
14          within the 65 days allocated by the statute for voluminous  
15          discovery materials.

16          There will probably be a third stage of discovery  
17          that may consist of materials, such as internal District  
18          Attorney's e-mail messages. We don't yet have any sort of  
19          visibility as to how long the production of those materials  
20          would take.

21          I should note for the record, we believe the  
22          materials that we produce in the first and second stages,  
23          particularly the grand jury materials in the first stage,  
24          will be the most important materials that the People will  
25          provide.

1                   We also would like to note for the record, that we  
2                   understand there is an intense public interest in moving  
3                   this case along as expeditiously as possible.

4                   The People intend to request a trial date in  
5                   January of 2024. So, we would like to produce these  
6                   materials to the defense as quickly as possible to allow  
7                   the defense ample time to prepare for a trial in January of  
8                   2024.

9                   THE COURT: All right, would you like to be  
10                  heard?

11                  MR. BLANCHE: Your Honor, I'll not repeat what I  
12                  said before. This has been a long investigation. We don't  
13                  have any discovery yet.

14                  The People, and certainly the President wants this  
15                  behind him. But, to sit here and say January of 2024 is  
16                  good with us when we have not seen a piece of paper yet, is  
17                  I think patently unfair for us, given everything that I  
18                  think we know about the case from the media and from  
19                  witnesses talking, and what we know. But certainly, we  
20                  think that is a little bit aggressive.

21                  We think later in the spring next year might be a  
22                  more realistic, a more realistic plan at this point. But  
23                  I'm speculating a bit because we have not seen anything  
24                  yet.

25                  THE COURT: All right, I understand what you are

1           saying. I think that is reasonable. You have not received  
2           discovery. It is difficult to anticipate if you will be  
3           ready for trial in January of 2024.

4                     The message I would like to deliver is we would  
5           like to move ahead as expeditiously as possible, without  
6           undue delay.

7                     Of course, you are entitled to the discovery, you  
8           are entitled to review the discovery and make  
9           determinations there. Okay.

10                    MS. MCCAW: Thank you, your Honor. The next topic  
11           we would like to discuss is a schedule going forward.

12                    I believe that the next step would be to set an  
13           appropriate motion schedule.

14                    The People have dates they would be willing to  
15           propose, but I understand as well that you might want to  
16           hear from the defense.

17                    THE COURT: I would. So, you know, ordinarily  
18           you get 45 days. I know this is a much more complex case.  
19           As you have seen in a couple of recent cases I presided  
20           over, I did extend the motion schedule. What did you have  
21           in mind?

22                    MR. BLANCHE: Thank you, your Honor. We  
23           appreciate the consideration.

24                    I would like to answer that in two parts, if I  
25           could. One, we strongly believe there will be substantive

1 motions addressing the substantive facts of the indictment  
2 that could be dispositive.

3 Those motions certainly may, after we reviewed  
4 discovery, because we rely in part on the materials  
5 produced from the People. That being said, we are -- we do  
6 believe that to move the case along expeditiously, there  
7 may be other motions that do not need to wait for the  
8 substantive motions several months from now after the  
9 conclusion of discovery.

10 And, so for example, the potential bill of  
11 particulars. We just got the statement of facts today.  
12 That might also be something we need before we start going  
13 through all the discovery.

14 So, what we would ask your Honor is we have an  
15 opportunity to study the indictment beyond the half an hour  
16 or so we had so far. Continue to think about potential  
17 motions and potentially file motions in two parts.

18 So, motions -- and we will communicate with the  
19 People and with the Court as we land on the specifics of  
20 which motions and the timing, but some of the motions  
21 potentially dismissing the indictment after we had a chance  
22 to review discovery. So, I don't know if it is worth  
23 setting a date now. But if the Court would like to, we say  
24 at least six weeks after discovery has been concluded, and  
25 for other potential motions that we will reach out to the

1 Court about, we would ask to have a month to file those  
2 motions or to at least inform the Court of what motions we  
3 intend to file.

4 THE COURT: So, People, when do you expect to  
5 complete your discovery?

6 MS. MCCAW: As I indicated, your Honor, we believe  
7 that the vast majority of the materials will be turned over  
8 to the defense within 65 days of the arraignment.

9 You know, there might be some additional straggler  
10 materials; especially the e-mail review, internal e-mail  
11 review from the District Attorney's Office.

12 That said, however, I don't believe the materials  
13 that would be coming post 65 days would be particularly  
14 meaningful.

15 Obviously, defense is entitled to see every single  
16 e-mail discovery in this case, but those e-mail messages  
17 tend not to be the most significant materials.

18 I would also like to say that to the extent that  
19 the defense does intend to file a set of motions  
20 immediately, and wants additional time after the discovery  
21 is complete to file a second set, we ask a motion schedule  
22 be set at this date for the first set of motions rather  
23 than waiting for a later date to set that motion schedule.

24 THE COURT: All right, so the 65 days would bring  
25 us out to almost mid June, at this point.



1 I'm not in favor of splitting this up into two  
2 sets of motions. I'll set one motion schedule, which I  
3 believe will be reasonable. If you disagree, let me know.

4 I think four months would be more than sufficient  
5 for you to be able to address your motions, so that would  
6 bring us out to August eighth. And so, by August eighth or  
7 before, please file any and all motions.

8 MR. BLANCHE: Thank you, your Honor. Just one  
9 caveat. To the extent we do believe we need to file a  
10 motion in advance of that, we will alert the People and  
11 Court, and obviously your Honor can guide us.

12 But, those dates you just described, assuming the  
13 schedule stays as the People have suggested works with us.

14 THE COURT: All right, so that would bring the  
15 People to, let me check my math here, I believe that brings  
16 the People's response to around September fifth.

17 MS. MCCAW: Your Honor, if they are having six  
18 weeks, we appreciate six weeks as well. That brings us to  
19 September 19th, if that is possible.

20 THE COURT: I'm not giving them six weeks. I'm  
21 giving them basically four months from today to complete  
22 all of their motions. That is what brings us out to about  
23 August eighth.

24 MS. MCCAW: So, if we could get six weeks from the  
25 date of the filing of their motions, in light of the amount

1 of time they will have had to prepare the motions, we  
2 request a date of September 19th.

3 THE COURT: Okay. People's response off  
4 calendar. Defense motions to be filed off calendar.  
5 People's response is to be filed off calendar also by  
6 September 19th. I believe that covers the three issues you  
7 wished to address.

8 MS. MCCAW: That is correct, your Honor.

9 THE COURT: Mr. Tacopina, Mr. Trump. The People  
10 have asked me to discuss with you the possibility of Mr.  
11 Tacopina might be conflicted out of this case.

12 MR. TACOPINA: Can I address some things said?

13 THE COURT: Sorry?

14 MR. TACOPINA: Can I address some things that were  
15 mentioned by the District Attorney regarding that?

16 THE COURT: Sure, go ahead.

17 MR. TACOPINA: Just to give you some actual  
18 context, and whatever the Court deems necessary we can have  
19 whatever the Court deems necessary.

20 To be clear, we received last night, for the first  
21 time, a letter from a Clark Brewster, an attorney  
22 apparently representing Stormy Daniels, that was lauded  
23 with factual inaccuracies.

24 First and foremost, I never met Stormy Daniels. I  
25 never spoke to Stormy Daniels, and I never reviewed any

1 documents of Stormy Daniels.

2 I know we are not doing a full-blown hearing here,  
3 but I want to give the Court some context.

4 She called my office, like many people do, and  
5 tried to hire me or asked about hiring me.

6 She spoke to an associate and paralegal. Gave  
7 some facts. Sent over a document, and it went no further  
8 than that.

9 We refused the case. I did not offer her  
10 representation. Didn't speak to her. Didn't meet with  
11 her. And it is as simple as that.

12 Of course, there is a rule governing that in New  
13 York State, the rule of ethics. Rule one point 18  
14 regarding the duties to prospective clients. And most  
15 importantly, what has to happen here is I have to be in  
16 possession of information that is significantly harmful to  
17 the person in the matter.

18 I know we are not doing a full-blown hearing. I  
19 just want to put some things on the record.

20 Your Honor, that first of all does not exist.  
21 Everything she sent us wound up in her book. So, there is  
22 not obviously any privilege, and any that existed was  
23 waived.

24 But moreover, I learned I have documents  
25 supporting this, that Ms. Daniels, or Ms. Clifford,

1           whatever her name is, signed a waiver, an attorney client  
2           waiver when she turned over all attorney client  
3           communications to the federal prosecutors in the Southern  
4           District, hereby waiving any attorney client privilege to  
5           begin with.

6                     She testified in open court about her attempt to  
7           secure representation prior to retaining Mr. Avenatti.

8                     She wrote a book regarding everything that had to  
9           do with potential representation and the document at hand.

10                    And unless there was ever a point where the Court  
11           deemed there was a conflict, which I submit based on this  
12           there is not, we can submit in writing our position from  
13           Michael Ross, who is one of the most important ethical  
14           lawyers in the city.

15                    More importantly, if we got to that point, we are  
16           not to that point, the remedy would be I do not participate  
17           in her examination.

18                    There are three different law firms here. It is  
19           as simple as that. So obviously, I wanted to give the  
20           Court our position on the factual assessment.

21                    THE COURT: People, what was your basis for  
22           believing there might be a conflict?

23                    MR. CONROY: Judge, it is a combination of the  
24           letter we received, which I can file with the Court in  
25           short order.

1                   And also, I believe there had been comments made  
2                   on various TV networks, perhaps even by Mr. Tacopina, and  
3                   there were some privileged conversations between them.

4                   If the Court -- obviously, if there will be  
5                   submissions, we are happy to engage in that process.

6                   Again, we wanted to alert the Court to the  
7                   potential issue, and I think it is a real potential issue  
8                   that needs to be explored.

9                   THE COURT:    Okay, so that is your position.   Mr.  
10                  Tacopina refutes that.   So, what I would ask is if there  
11                  comes a point you would like to submit a motion on this, I  
12                  will certainly welcome it.

13                 In the meantime, I do believe I have an obligation  
14                 to address both Mr. Tacopina and Mr. Trump with regard to  
15                 this.

16                 So, Mr. Tacopina, Mr. Trump, as you know, you have  
17                 an absolute right to conflict-free representation.

18                 The People have alleged that there is a potential,  
19                 Mr. Tacopina has a conflict, and the basis for their belief  
20                 is that he may have represented a former client who is a  
21                 witness in this case.

22                 At this point, I'm not making any findings of  
23                 fact.   I'm not deciding who is telling the truth or who is  
24                 not telling the truth.

25                 I simply want to inform you that because it is an

1           important right. I also want to -- first, do you  
2           understand that right, Mr. Trump?

3                       DEFENDANT MR. TRUMP: Yes.

4                       THE COURT: And therefore, People are not filing a  
5           motion at this time, but you are certainly welcome if you  
6           wish between now and then to consult with other counsel,  
7           run this issue by them and see how you feel about it when  
8           it it's over, okay?

9                       DEFENDANT MR. TRUMP: Okay, thank you.

10                      THE COURT: All right, I believe the only other  
11           issue is the Parker issue.

12                      MR. CONROY: Correct, Judge.

13                      THE COURT: So, Mr. Trump, the People asked me to  
14           give you what are called Parker warnings.

15                      I want you to know I would have given you these  
16           warnings whether they asked for them or not.

17                      This is something I do with every individual who  
18           appears before me in the courtroom. Please bear with me as  
19           I do this.

20                      You have the right to be present at every stage of  
21           the proceedings in your case. At every proceeding involved  
22           in the case, and that is obviously a very, very important  
23           right because it allows you to assist your attorneys in  
24           your defense of you.

25                      It allows them to consult with you in your defense



1 of you. I think it is definitely advantageous to have the  
2 jurors, if there is a jury, to see you present.

3 So, for all those reasons, I'm sure you can  
4 appreciate the right to be present at your trial and your  
5 proceedings is important.

6 I'm required by law to inform you that there are  
7 ways that you can waive your right to be present at these  
8 proceedings.

9 Specifically, I would like to refer to two  
10 specific areas. You can waive your right to be present if  
11 you voluntarily absent yourself from the proceedings.

12 So, if it is determined that at some point down  
13 the road you are not present at some stage because you  
14 chose not to be present, I do have the authority, I do have  
15 the right to find you voluntarily waived your right to be  
16 present and continue the proceedings in your absence. Do  
17 you understand that?

18 DEFENDANT MR. TRUMP: Yes.

19 THE COURT: A second way you can lose your right  
20 or waive your right is to become disruptive, and I do not  
21 have any reason to believe that will happen. But, if you  
22 become disruptive to such a degree that it affects my  
23 ability to preside over this case and my ability to insure  
24 that the case is treated the way it needs to be treated for  
25 both sides, I do have the authority to remove you from the

1           courtroom and continue in your absense, do you understand  
2           that?

3                     DEFENDANT MR. TRUMP: I do.

4                     THE COURT: All right, if either one of those  
5           situations were to happen, and the case were to go to  
6           trial, we would go to trial without you.

7                     If there were a verdict and that verdict were to  
8           be guilty, we would be able to take that verdict without  
9           you. And if there were to be a time for sentencing, we  
10          would be able to impose sentence without you. Do you  
11          understand?

12                    DEFENDANT MR. TRUMP: Yes.

13                    THE COURT: I think we need to set an adjourned  
14          date.

15                    Having read Mr. Trump his Parker warnings, Mr.  
16          Trump will be released on his own recognizance. So we  
17          picked September 19th for People's response?

18                    MS. MCCAW: Yes, your Honor.

19                    THE COURT: All right, lets set this down for  
20          December fourth, for the Court's decision on the motions.

21                    That will be here in person. So again, defense  
22          motion filed off calendar. People's response filed off  
23          calendar, but we will meet back here in person on December  
24          fourth for the Court's decision on the motions.

25                    If for some reason I'm unable to have my decisions

1           ready or not all the decisions ready, I will certainly let  
2           you know.

3                       MR. BLANCHE: Judge, very, very briefly on the  
4           adjourned date. I am just stating the obvious that having  
5           President Trump in this courtroom today is extraordinarily  
6           burdensome and expensive on the city, and with the security  
7           issues that have taken place to allow us to be here today.

8                       I do not know, your Honor, we have to decide this  
9           today, but we may ask that President Trump, his presence be  
10          waived just for that date.

11                      We will speak with the President and with others  
12          in advance if necessary to request that of the Court.

13                      THE COURT: You probably don't know now because  
14          you are not making the application. What would be the  
15          reason asking to waive his appearance?

16                      MR. BLANCHE: Just simply the fact the incredible  
17          expense and effort and security issues that present  
18          themselves with the President traveling and being in  
19          court. All of lower Manhattan was shut down today.

20                      To the extent it is a conference or a decision  
21          that is announced, not anything that requires us to  
22          simultaneously consult with President Trump, we may ask his  
23          presence be waived.

24                      THE COURT: Would you like to be heard?

25                      MR. CONROY: Judge, I would just say, as I'm sure

1           you know, our general preference is defendants be in court  
2           on the court date.

3                       We also recognize, as counsel explained, the  
4           immense burden that places on the court system and on lower  
5           Manhattan. So we would defer to your Honor's decision on  
6           that.

7                       THE COURT: Well, there is no question this was a  
8           huge undertaking today for everyone involved, from Mr.  
9           Trump, the prosecution, the city, courts, there is no  
10          question about that.

11                      At the same time, today is April 4th and we are  
12          looking at the first adjournment in December, that is quite  
13          a ways out.

14                      You know, if a reason were to come up that your  
15          client was unable to appear on that date; something  
16          unanticipated, you can certainly run that by me.

17                      But in the same way I expect all other defendants  
18          to appear in court, even high profile defendants, and I  
19          agree, we wish we could avoid all these logistical  
20          challenges. I think in the interest of transparency and  
21          assuring the rules of law evenhandedly, at this time I'm  
22          going to deny your application.

23                      If you have another one to make later, you can.

24                      MR. BLANCHE: Thank you. To be clear, I was not  
25          suggesting President Trump does not want to be here.

1 I'm suggesting having lived the past several hours  
2 as your Honor has as well and the expense this costs the  
3 city just for an arraignment, that was a reason for  
4 bringing this up today.

5 I appreciate the Court's guidance. To the extent  
6 we need to, we will revisit it.

7 THE COURT: What you said is true, and I agree.  
8 Thank you all very much.

9

10

11 I, Randy Berkowitz, a senior court reporter in and  
12 for the State of New York, do hereby certify that the  
13 foregoing transcript is true and accurate to the best of my  
14 knowledge, skill and ability.

15

16 Randy Berkowitz,  
17 Senior Court Reporter

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# **EXHIBIT 72**